## 1999 DRAFTING REQUEST

## Assembly Amendment (AA-ASA1-AB133)

Received: 06/24/99					Received By: olsenje			
Wanted	: Today		Identical to LRB:  By/Representing: Rindfleisch  Drafter: olsenje					
For: As	sembly Repul	blican Caucus						
This file	e may be show	n to any legisla						
May Co	ontact:		Alt. Drafters:					
Subject	Public	Defender	Extra Copies: MGD					
Pre To	<b>pic:</b> Rindfleisch	- Am. # 19,			,			
Topic:		<del></del>		· · · · · · · · · · · · · · · · · · ·			<del></del>	
SPD rep	presentation in	CHIPS/JIPS ca	ses					
Instruc		3.						
 Draftin	g History:							
Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required	
/1	olsenje 06/24/99 malaigm 06/26/99	jgeller 06/24/99 jgeller 06/26/99	martykr 06/24/99		lrb_docadmin 06/24/99			
/2			kfollet 06/26/99		lrb_docadmin 06/26/99			
FE Sent	For:			∠FND>				

## 1999 DRAFTING REQUEST

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Wanted:	Today						
For: Ass	embly Reput	olican Caucus					
This file	may be show	n to any legislato					
May Co	ntact:						
Subject:	Public	Defender		Extra Copies:			
Pre Top							
ARC:	Rindfleisch -	Am. # 19,				······································	
Topic:							
SPD representation in CHIPS/JIPS cases							
Instructions:						· · · · · · · · · · · · · · · · · · ·	
See Atta	ched					,	
Drafting	g History:						
Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	<u>Jacketed</u>	Required
/1 EE Sout	olsenje 06/24/99	jgeller 06/24/99 /2 6/26 La	martykr 06/24/99		lrb_docadmin 06/24/99		
FE Sent	ror:	5	Olace	6/00 A	,		

### 1999 DRAFTING REQUEST

### **Assembly Amendment (AA-ASA1-AB133)**

Received: 06/24/99

Received By: olsenje

Wanted: Today

Identical to LRB:

For: Assembly Republican Caucus

By/Representing: Rindfleisch

This file may be shown to any legislator: NO

- Drafter: olsenje

May Contact:

Alt. Drafters:

malaigm

Subject:

**Public Defender** 

Extra Copies:

**MGD** 

Pre Topic:

ARC:....Rindfleisch - Am. # 19,

Topic:

SPD representation in CHIPS/JIPS cases

**Instructions:** 

See Attached

FE Sent For:

**Drafting History:** 

Vers.

Drafted

Reviewed

Proofed

**Submitted** 

<u>Jacketed</u>

Required

/1

olsenje

<END>

State Public Defender. Authorizes the State Public Defender to represent parents in CHIPS cases.

19

Spillner

Jason

**EUBICATEUR** 

Public Defender

Summary e

In 1995-97 budget, the Legislature eliminated statutory authority regarding a parent's right to counsel in Children in Need of Protective Services proceedings. Subsequently, a Wisconsin Supreme Court ruling indicated that courts have the power to appoint counsel for parents in CHIPS cases. Since the SPD is no longer authorized to represent parents in CHIPS cases, when a court determines that public representation is required, such counsel is paid for by counties.

This budget amendment authorizes the State Public Defender to represent parents in CHIPS cases, when a court determines that public representation is required.

The amendment directs the State Public Defender to find monies within their current budget to fund this change.

None.

AGE CHEWSE.

Kelly Rindfleisch

T. KRATOCHWILL, DIRECTOR

17 south fairchlia

suite 801

madison, wisconsin 53708-8952

ASSEMBLY SEPUBLICAN CAUCUS

toll-free 888

394.1452 fax 608 | 264.5999 er.caucus@lagis.state.wi.us

http://www.legis.state.wi.us/assembly/arc

6/24/99

To: Tetren Olsen

Fr: Tager X

ro: chips

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# **Budget Amendments 1999-2000**

b 1225

panged Sta

Statement of Intent

State Public Defender. Authorizes the State Public Defender to represent parents in CHIPS cases.

Amendment#

Status

Tax Cut

Legislator

Spillner

Staff contact

Jason

Agency

Public Defender

Summary

In 1995-97 budget, the Legislature eliminated statutory authority regarding a parent's right to counsel in Children in Need of Protective Services proceedings. Subsequently, a Wisconsin Supreme Court ruling indicated that courts have the power to appoint counsel for parents in CHIPS cases. Since the SPD is no longer authorized to represent parents in CHIPS cases, when a court determines that public representation is required, such counsel is paid for by counties.

This budget amendment authorizes the State Public Defender to represent parents in CHIPS cases, when a court determines that public representation is required.

The amendment directs the State Public Defender to find monies within their current budget to fund this change.

Fiscal Impact

None.

ARC Analyst

Kelly Rindfleisch



## State of Misconsin 1999 - 2000 LEGISLATURE

LRBb1225/1 JEO&GMM: $_{\Lambda}$ :....



jż

ARC:.....Rindfleisch – Am. # 19, SPD representation in CHIPS/JIPS cases
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

### **CAUCUS AMENDMENT**

## TO ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1999 ASSEMBLY BILL 133

1	At the locations indicated, amend the substitute amendment as follows:
2	1. Page 645, line 22: after that line insert:
3	"Section 1130z. 48.23 (3) of the statutes is amended to read:
4	48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under
5	s. 48.13, at $\Delta t$ any time, upon request or on its own motion, the court may appoint
6	counsel for the child or any party, unless the child or the party has or wishes to retain
7	counsel of his or her own choosing. The court may not appoint counsel for any party
8	other than the child in a proceeding under s. 48.13."
	History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.
9	2. Page 1431, line 22: after that line insert:
10	"Section 3142m. 938.23 (3) of the statutes is amended to read:

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938.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under s. 938.13, at At any time, upon request or on its own motion, the court may appoint counsel for the juvenile or any party, unless the juvenile or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the juvenile in a proceeding under s. 938.13.".

6 3. Page 1603, line 24: after that line insert:

"(4s) Representation in proceedings involving children in need of protection

8 OR SERVICES. The treatment of section 48.23 (3) of the statutes first applies to

9 proceedings commenced under section 48.13 of the statutes on the effective date of

10 this subsection.

OR SERVICES. The treatment of section 938.23 (3) of the statutes first applies to proceedings commenced under section 938.13 of the statutes on the effective date of this subsection.".

(END)



### State of Misconsin 1999 - 2000 LEGISLATURE



ARC:.....Rindfleisch – Am. # 19, SPD representation in CHIPS/JIPS cases

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

### **CAUCUS AMENDMENT**

## TO ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1999 ASSEMBLY BILL 133



At the locations indicated, amend the substitute amendment as follows:

1. Page 645 line 22: after that line insert:

SECTION EASO. 48.23 (3) of the statutes is amended to read:

48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under s. 48.13, at At any time, upon request or on its own motion, the court may appoint counsel for the child or any party, unless the child or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the child in a proceeding under s. 48.13.

2. Page 1431, line 22: after that line insert:

SECTION 3142m. 938.23 (3) of the statutes is amended to read:

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1-8 01 (1-8 01 1-9 10

938.23 (3) Power of the court to appoint counsel. Except in proceedings 1 under s. 938.13, at At any time, upon request or on its own motion, the court may 2 appoint counsel for the juvenile or any party, unless the juvenile or the party has or 3 wishes to retain counsel of his or her own choosing. The court may not appoint 4 counsel for any party other than the juvenile in a proceeding under s. 938.13. 3. Page 1603, line 24: after that line insert: (section 5 REPRESENTATION IN PROCEEDINGS INVOLVING CHILDREN IN NEED OF 7 "(4cs) (and (4) and 48.27 (4)x0) ? PROTECTION OR SERVICES. The treatment of section 48.23 (3) tof the statutes first (8) **£** applies to proceedings commenced under section 48.13 of the statutes on the effective sections 938.20(8), 938.21(3) (d) date of this subsection. 10 REPRESENTATION IN PROCEEDINGS INVOLVING JUVENILES IN NEED OF 11 (4ct) 1,63) and (4), 938.243 (1Xe) and 934,27 PROTECTION OR SERVICES. The treatment of section 938.23 (3) of the statutes (4)(4)(4) (2)BU AMARBON) to proceedings commenced under section 938.13 of the statutes on the  $\mathfrak{Q}$ plain effective date of this subsection.". 14 (END) 15

A the gratutes and the creakon of seckon 48.23(2)

(2)(b) of the statutes had apply

[nsert 1-2]

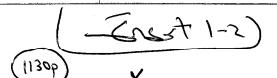
Section #. 48.20 (8) of the statutes is amended to read:

the right to council under s. 48.23 re gardless of

48.20 (8) If a child is held in custody, the intake worker shall notify the child's parent, guardian and legal custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the child is 12 years of age or older, the child shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the child and the child's parent, guardian or legal custodian. When the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., the unborn child, through the unborn child's guardian ad litem, shall receive the same notice about the whereabouts of the child expectant mother, about the reasons for holding the child expectant mother in custody and about the detention hearing as the child expectant mother and her parent, guardian or legal custodian. The intake worker shall notify the child expectant mother, her parent, guardian or legal custodian and the unborn child, by the unborn child's guardian ad litem.

History: 1977 c. 354, 449; 1979 c. 300; 1983 a. 189 s. 329 (5); 1993 a. 16, 56, 98, 385; 1995 a. 27, 77; 1997 a. 292.





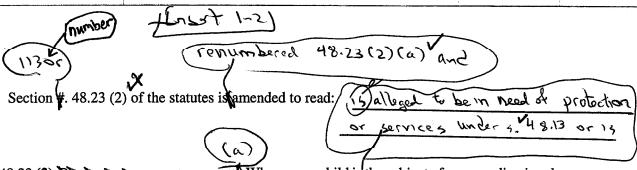
Section #. 48.21 (3) (d) of the statutes is amended to read:

The right to counsel under s. 48.23 regardless of

48.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to confront and cross—examine witnesses and the right to present witnesses.

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292.

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48.23 (2) Represents to counsel. Whenever a child is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel. A minor parent petitioning for the voluntary termination of parental rights shall be represented by a guardian ad litem. If a proceeding involves a contested adoption or the involuntary termination of parental rights, any parent 18 years old or older who appears before the court shall be represented by counsel; but the parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.



#### 1999-2000 DRAFTING INSERT FROM THE LEGISLATIVE REFERENCE BUREAU

#### (INSERT 1-2)

SECTION 1130t. 48.23 (2) (b) of the statutes is created to read:

48.23 (2) (b) If a petition under s. 48.13 is contested, no child may be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the child may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this paragraph to be represented by counsel may, however, waive counsel if the court is satisfied that such waiver is knowingly and voluntarily made, and the court may place the child outside the home even though the parent was not represented by counsel.

(END OF INSERT)

Ensert 1-8)

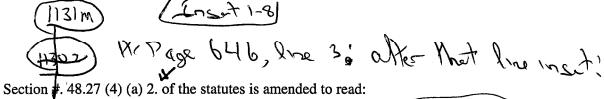
(1130x)

Section #. 48.23 (4) of the statutes is amended to read:

child)

48.23 (4) Providing counsel. In any situation under this section in which a person has a right to be represented by counsel or is provided counsel af the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. If the referral is of a person who has filed a petition under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours after that referral Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to represent the child in any appeal brought under s. 809.105 unless the <del>child</del> requests substitution of counsel or extenuating circumstances make it impossible for counsel to continue to represent the child. In any situation under sub. (2) or (2m) in which a parent 18 years of age or over or an adult expectant mother is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent or adult expectant mother is unable to afford counsel in full, or the parent or adult expectant mother so indicates; the court shall refer the parent or adult expectant mother to the authority for indigency determinations specified under s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the child who is named as the respondent in that petition.

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.

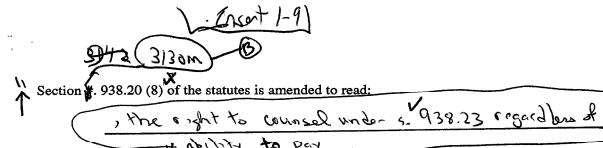


and any other perty, if applicable,

48.27 (4) (a) 2. Advise the child of his or her right to legal counsel regardless of ability to pay.

History: 1977 c. 354; 1979 c. 300, 331, 359; 1983 a. 27; Sup. Ct. Order, 141 W (2d) xiv (1987); 1987 a. 403; 1991 a. 263, 315; 1993 a. 98, 395; 1995 a. 27, 77, 275; 1997 a. 237, 292; 13.93 (1) (b).

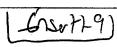
( rd & ret)



938.20 (8) If a juvenile is held in custody, the intake worker shall notify the juvenile's parent, guardian and legal custodian of the reasons for holding the juvenile in custody and of the juvenile's whereabouts unless there is reason to believe that notice would present imminent danger to the juvenile. If a juvenile who has violated the terms of aftercare supervision administered by the department or a county department is held in custody, the intake worker shall also notify the department or county department, whichever has supervision over the juvenile, of the reasons for holding the juvenile in custody, of the juvenile's whereabouts and of the time and place of the detention hearing required under s. 938.21. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 938.21, the nature and possible consequences of that hearing and the right to present and cross—examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the juvenile is alleged to have committed a delinquent act, the juvenile shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the juvenile and the juvenile's parent, guardian or legal custodian.

History: 1995 a. 77; 1997 a. 35.

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Section #. 938.21 (3) (d) of the statutes is amended to read:

938.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to confront and cross-examine witnesses and the right to present witnesses.

History: 1995 a. 77, 275; 1997 a. 35, 237, 296.



LRBb1225/2 GMM...:...

FROM THE
LEGISLATIVE REFERENCE BUREAU

(31429) (33) (438,13) (938,13)

938

SECTION 1180t. 48.23 (2) (16) of the statutes is created to read: Likenie

outside his or her home unless the nonpetitioning parent is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this paragraph to be represented

by counsel may, however, waive counsel if the court is satisfied that such waiver is

knowingly and voluntarily made, and the court may place the child outside the home

even though the parent was not represented by counsel.

CENTROPINSERDY (CASTINA)

Application or services under a 928.13, any
parent under 18 years of age who appears before
the court shall be represented by counsel;
but no such parent may waive counsel.

60st 2-5 45412 Section #. 938.23 (4) of the statutes is amended to read:

938.23 (4) Providing counsel. In any situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in that petition.

History: 1995 a. 77.

In any situation under sub.(2) in which a parent 18 years & age or over 14 envirbed to Expresentation by counsel; counsel is not knowings and voluntarily waived, and it appears that the parent 14 unable to afford counsel in Cull, or the parent so indicates; the Court shall refer the parent to the authority for indigency determinations 5pecified in 5. # 977.07 (1).

malaigm(Irbunx14)

[ Luse trice)



Section #. 938.243 (1) (e) of the statutes is amended to read:

938.243 (1) (e) The right of the juvenile to counsel under s. 938.23.

History: 1995 a. 77; 1997 a. 35.

# Page 1432, line 21: after that line insert:

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Last 2-5

Section #. 938.27 (4) (b) of the statutes is amended to read:

and any other party, if applicable,

938.27 (4) (b) Advise the juvenile of his or her right to legal counsel regardless of ability to pay.

History: 1995 a. 77, 275; 1997 a. 80, 181, 237.

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It Page 1434, line 2: after that line insert:



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### State of Misconsin 1999 - 2000 LEGISLATURE

LRBb1225/2 JEO&GMM:jlg:kjf

ARC:.....Rindfleisch – Am. # 19, SPD representation in CHIPS/JIPS cases

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

### **CAUCUS AMENDMENT**

## TO ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 1999 ASSEMBLY BILL 133

At the locations indicated, amend the substitute amendment as follows:

1. Page 645, line 22: after that line insert:

"Section 1130m. 48.20 (8) of the statutes is amended to read:

48.20 (8) If a child is held in custody, the intake worker shall notify the child's parent, guardian and legal custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, the right to counsel under s. 48.23 regardless of ability to pay and the right to present and cross—examine

witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the child is 12 years of age or older, the child shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the child and the child's parent, guardian or legal custodian. When the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., the unborn child, through the unborn child's guardian ad litem, shall receive the same notice about the whereabouts of the child expectant mother, about the reasons for holding the child expectant mother in custody and about the detention hearing as the child expectant mother and her parent, guardian or legal custodian. The intake worker shall notify the child expectant mother, her parent, guardian or legal custodian and the unborn child, by the unborn child's guardian ad litem.

**SECTION 1130p.** 48.21 (3) (d) of the statutes is amended to read:

48.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to counsel under s. 48.23 regardless of ability to pay, the right to confront and cross—examine witnesses and the right to present witnesses.

SECTION 1130r. 48.23 (2) of the statutes is renumbered 48.23 (2) (a) and amended to read:

48.23 (2) (a) Whenever a child is <u>alleged to be in need of protection or services</u> under s. 48.13 or is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, any parent under 18 years of age who

appears before the court shall be represented by counsel; but no such parent may waive counsel. A minor parent petitioning for the voluntary termination of parental rights shall be represented by a guardian ad litem. If a proceeding involves a contested adoption or the involuntary termination of parental rights, any parent 18 years old or older who appears before the court shall be represented by counsel; but the parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

SECTION 1130t. 48.23 (2) (b) of the statutes is created to read:

48.23 (2) (b) If a petition under s. 48.13 is contested, no child may be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the fact—finding hearing and subsequent proceedings. If the petition is not contested, the child may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this paragraph to be represented by counsel may, however, waive counsel if the court is satisfied that such waiver is knowingly and voluntarily made, and the court may place the child outside the home even though the parent was not represented by counsel.

SECTION 1130v. 48.23 (3) of the statutes is amended to read:

48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under s. 48.13, at At any time, upon request or on its own motion, the court may appoint counsel for the child or any party, unless the child or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the child in a proceeding under s. 48.13.

SECTION 1130x. 48.23 (4) of the statutes is amended to read:

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48.23 (4) Providing counsel. In any situation under this section in which a person child has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person child to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. If the referral is of a person child who has filed a petition under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours after that referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to represent the child in any appeal brought under s. 809.105 unless the child  $requests \ substitution \ of \ counselor \ extenuating \ circumstances \ make \ it \ impossible \ for$ counsel to continue to represent the child. In any situation under sub. (2) or (2m) in which a parent 18 years of age or over or an adult expectant mother is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent or adult expectant mother is unable to afford counsel in full, or the parent or adult expectant mother so indicates; the court shall refer the parent or adult expectant mother to the authority for indigency determinations specified under s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the child who is named as the respondent in that petition.".

2. Page 646, line 3: after that line insert:

"Section 1131m. 48.27 (4) (a) 2. of the statutes is amended to read:

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48.27 (4) (a) 2. Advise the child and any other party, if applicable, of his or her right to legal counsel regardless of ability to pay.".

**3.** Page 1431, line 22: after that line insert:

"Section 3130m. 938.20 (8) of the statutes is amended to read:

938.20 (8) If a juvenile is held in custody, the intake worker shall notify the juvenile's parent, guardian and legal custodian of the reasons for holding the juvenile in custody and of the juvenile's whereabouts unless there is reason to believe that notice would present imminent danger to the juvenile. If a juvenile who has violated the terms of aftercare supervision administered by the department or a county department is held in custody, the intake worker shall also notify the department or county department, whichever has supervision over the juvenile, of the reasons for holding the juvenile in custody, of the juvenile's whereabouts and of the time and place of the detention hearing required under s. 938.21. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 938.21, the nature and possible consequences of that hearing, the right to counsel under s. 938.23 regardless of ability to pay and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the juvenile is alleged to have committed a delinquent act, the juvenile shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the juvenile and the juvenile's parent, guardian or legal custodian.

SECTION 3131m. 938.21 (3) (d) of the statutes is amended to read:

938.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to counsel under s. 938.23 regardless of ability to pay, the right to confront and cross—examine witnesses and the right to present witnesses.

**SECTION 3142g.** 938.23 (2) of the statutes is created to read:

938.23 (2) (a) Whenever a juvenile is alleged to be in need of protection or services under s. 938.13, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel.

(b) If a petition under s. 938.13 is contested, no juvenile may be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the fact—finding hearing and subsequent proceedings. If the petition is not contested, the juvenile may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this paragraph to be represented by counsel may, however, waive counsel if the court is satisfied that such waiver is knowingly and voluntarily made, and the court may place the juvenile outside the home even though the parent was not represented by counsel.

SECTION 3142m. 938.23 (3) of the statutes is amended to read:

938.23 (3) Power of the court to appoint counsel. Except in proceedings under s. 938.13, at At any time, upon request or on its own motion, the court may appoint counsel for the juvenile or any party, unless the juvenile or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the juvenile in a proceeding under s. 938.13.

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**SECTION 3142p.** 938.23 (4) of the statutes is amended to read:

938.23 (4) Providing counsel. In any situation under this section in which a person juvenile has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the person juvenile to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. In any situation under sub. (2) in which a parent 18 years of age or over is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent is unable to afford counsel in full, or the parent so indicates; the court shall refer the parent to the authority for indigency determinations specified in s. 977.01 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in that petition.".

**4.** Page 1432, line 21: after that line insert:

"Section 3142r. 938.243 (1) (e) of the statutes is amended to read:

938.243 (1) (e) The right of the juvenile to counsel under s. 938.23.".

5. Page 1434, line 2: after that line insert:

"Section 3148m. 938.27 (4) (b) of the statutes is amended to read:

938.27 (4) (b) Advise the juvenile and any other party, if applicable, of his or her right to legal counsel regardless of ability to pay.".

### **6.** Page 1603, line 24: after that line insert:

"(4cs) Representation in proceedings involving children in Need of Protection or Services. The treatment of sections 48.20 (8), 48.21 (3) (d), 48.23 (3) and (4) and 48.27 (4) (a) 2. of the statutes, the renumbering and amendment of section 48.23 (2) of the statutes and the creation of section 48.23 (2) (b) of the statutes first apply to proceedings commenced under section 48.13 of the statutes on the effective date of this subsection.

(4ct) Representation in proceedings involving juveniles in Need of Protection or Services. The treatment of sections 938.20 (8), 938.21 (3) (d), 938.23 (2), (3) and (4), 938.243 (1) (e) and 938.27 (4) (b) of the statutes first applies to proceedings commenced under section 938.13 of the statutes on the effective date of this subsection.".

(END)